

this consolidated 37 CFR 1.312 AMENDMENT. Applicant appreciates the Examiner's evaluation and concurs with all the proposed amendments discussed since the entry of the Notice of Allowance dated 12/10/2004. Specifically, Applicant concurs with the Examiner's Amendments outlined in paragraphs 1.2, 1.3, 1.4, and 1.5 of the Notice of Allowability mailed 12/10/04, and therefore claims 2 through 21 should be allowed.

Applicant does not concur with the proposed amendment to Claim 1, line four, inserting the phrase "laterally adjustable" to distinguish applicant's invention from the cited references. The proposed amendment overly restricts the scope of invention, as one could avoid the claim by simply using fixed posts instead of adjustable posts to practice the invention (It also is largely duplicative of the adjustable posts invention of Claim 4). Applicant's invention envisions both fixed and adjustable posts. Applicant would thus agree to the inclusion of the term "lateral" in the broadest Claim 1 without the "adjustable" qualifier, and the post description modifier "extending downwardly between the posts toward the end of the mattress opposite said elevated end" suggested by the Primary and Secondary Examiners. The proposed additional language better reflects that Applicant's posts are "infant weight bearing" or "lateral movement restricting" as neither the Szabo or Berman references support a child's weight or restrict its sideward movement in the manner of Applicant's invention.

Applicant's invention is an infant reflux inclined mattress suspense system employing lateral side posts with a strap suspension strap attached to the side posts of sufficient length and width to pass between an infant's legs to support it from the crotch between the side posts, such that the side posts and suspension strap allow infant movement during sleep, but prevent the infant from disengaging and falling down the inclined mattress. Applicant's invention thus holds an infant in either a supine or face down reclining stretched out position where its legs and arms are free to move.

None of the references disclose an inclined mattress system employing lateral side posts beside the infant with a suspension strap attached to the side posts of sufficient length and width to pass between an infant's legs to support it from the crotch between the side posts. Consequently, this Claim 1, line four, "laterally adjustable" restriction is not required to distinguish the cited references.

Applicant's invention of Claim 1 holds an infant on a mattress between lateral side posts in either a supine or face down reclining stretched out position where its legs and arms are free to move. The only device holding an infant on a mattress in a reclining stretched out position is the R.J. Peters, U.S. Patent No. 2,611,363 safety body supporting device. It has no posts and holds an individual by a strap affixed to the mattress to secure around the chest with the feet placed in mattress attached boots to secure the patient in a supine position. This device is unsuitable for comfortable sleeping as the legs and chest are not free to move. Nor does it provide a suspense strap post system similar to Applicant's invention, which allows an infant to be placed either in a supine or face down reclining stretched out position on an inclined mattress.

The following sitting positioning devices do not employ inclined mattresses or posts to suggest or disclose Applicant's invention. The Gallagher, U.S. Patent No. 2,77,138 Baby Back Rest holds an infant in a sitting upright position via chest and leg straps (no posts employed). The Szabo, U.S. Patent No. 2,647,561 bathing and amusement chair also holding an invalid child in an upright sitting position via seat and chest straps placed across the legs and chest. Szabo employs perimeter head rests 16 and a chest strap 15, see Fig. 1, not posts. The Berman, U.S. Patent No. 3,759,252 immobilizing apparatus for hip dislocation treatment holds an infant in a supine reclining chair like sitting position via a chest strap system 123 (Col 5, line 67 to Col 6, lines 1 through 6). The straps are attached to the bases of vertical rising perimeter structure 156 used to secure yokes 203 to support the tops of the patient's leg held in a flexed knee inclined sitting position. Hence posts and straps similar to Applicant's are not employed.

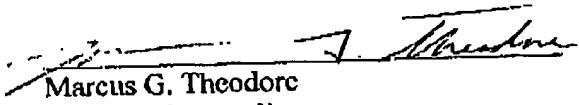
The Craig, U.S Patent No. 4,108,168 hip splint device is not used with a mattress and also fails to provide any of the above deficiencies. Craig is a confining splint, which holds the shoulders hips and legs by harnesses in a splayed angle to aid in hip repair. It therefore does not employ a mattress or side posts and is not intended as a sleep aid. Further, its restrictive therapeutic restraints are not conducive to comfortable sleep and could injure an infant if placed face down on a mattress for sleeping.

In summary, the above references fail to disclose an inclined mattress with lateral side posts and strap support system adapted to allow an infant to sleep in either a supine or face down position with its legs free to move. Consequently, the proposed Claim 1

restriction is not necessary to distinguish the references cited. It is therefore respectfully requested that the Examiner withdraw the "adjustable" language of the proposed amendment to Claim 1, as said amendment overly restricts the scope of invention. Applicant concurs with the addition to the post description language suggested by the Examiner "extending downwardly between the posts toward the end of the mattress oppositely said elevated". Applicant therefore specifically requests that Claim 1, twice amended, with the limited inclusion of the above qualifiers be allowed in addition to Claims 2 through 21 dependent thereon.

If the Examiner's proposes or requires a different amendment, a telephonic conference is requested.

Dated this 3rd day of February 2005.


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CERTIFICATE OF MAILING

I certify that I mailed a true and correct copy of the foregoing 37 CFR Amendment to Commissioner of Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, postage prepaid, and via fax to Examiner Santos 703-746-3768 this 3rd day of February 2005.

